

IN RE: PETITION FOR SPECIAL VARIANCE • BEFORE THE
N.S. Necker Avenue, 260 ft. • ZONING COMMISSIONER
SE of Vollmert Avenue •
408 Necker Avenue • OF BALTIMORE COUNTY
11th Election District •
6th Councilmanic District • Case No. 92-374-SA
Ronald W. Chapman, et ux
Petitioners •

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Variance for that property known as 4308 Necker Avenue in the White Marsh area of Baltimore County. Specifically, the Petitioners seek a special variance, pursuant to Section 4A02.4.F.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), relating to transportation standards of intersections for a non-industrial development. The special variance, if granted, would be from the strict application of the standards enunciated within Section 4A02.4.D of the B.C.Z.R. That section restricts development within the shed of a failing intersection. The subject property is located within close proximity of the failing intersection at Belair Road and Putty Hill Avenue-Ridge Road.

The Petitioners, property owners, Ronald W. Chapman and Diane H. Chapman, appeared at the public hearing in support of their Petition. Also appearing were J. Strong Smith, the engineer who prepared the plat to accompany the Petition marked as Petitioners' Exhibit No. 1 and James E. Matthews, a development consultant. Other potential buyers of lots created by the proposed subdivision appeared in support of the Petition. There were no Protestants present.

The subject site is located on Necker Avenue near its intersection with Belair Road, near the above referenced failing intersection. The site is 1.14 acres in net area and is zoned D.R.5.5. Presently, it is improved by an existing two story single family dwelling. The Petitioners propose to divide the subject lot, thereby creating two additional dwelling lots. These lots will be sold and single family dwellings will be created thereon. Therefore, the site will ultimately support three dwelling units.

As indicated above, the Growth Management Regulations found within Article 4A of the B.C.Z.R. restrict development when same is to occur within the shed of a failing intersection. This restriction is relevant to the property here because of the close proximity of the failing intersection at Belair Road and Putty Hill Avenue-Ridge Road. However, a variance permitting development may be granted if the Petitioners can demonstrate that the impact of the proposed development would be less than assumed by the district standard which would otherwise restrict or prohibit development, or if the district standard is not relevant. Further, the Petitioners must elicit evidence to show that the subject Petition will not adversely affect a person whose application was filed prior to the Petitioners' application.

In support of the special variance, Mr. Smith testified. He noted that the impact of the proposed development will actually be less, by approximately one-third, than might otherwise be assumed. His reasoning is based upon the fact that the property currently supports an existing dwelling and, although three dwellings will ultimately occupy the property, there will only be a net increase of two. That is, the lot is not undeveloped at this time and already supports an existing house which

contributes to traffic at the present time. Mr. Smith also noted ongoing improvements to the F level intersection and surrounding road network. He testified that the intersection, itself, is presently ongoing construction which should be completed by the Fall of 1992. This may boost the level of service from its present failing state to a passing grade. Further, other improvements are currently being undertaken to the road network system in this locale. In this regard, the Petitioners produced a letter from Stephen E. Weber, Assistant Traffic Engineer, in the Baltimore County Bureau of Traffic Engineering. Mr. Weber's letter notes that Rossville Boulevard will be open to traffic in the near future and that development will result in a "very high probability that the level of service at Belair Road and Putty Hill Avenue-Ridge Road will be improved . . .". Mr. Weber goes on to note that the net effect of this improvement will be to lift the moratorium created by the growth management legislation and its application to the subject failing intersection.

As to prior applications for a reserve capacity use certificate, Mr. Smith testified that he had researched pending applications and that there were only two on file. These were both scheduled to expire in the near future. Thus, he concluded that the subject Petition would not adversely affect these prior applications.

Based upon the testimony of Mr. Smith and particularly the letter submitted from the Assistant Traffic Engineer, Stephen Weber, I am persuaded that the Petition should be granted. Although the subject intersection is presently failing, it is clear that ongoing improvements should remedy this deficiency in the near future. Further, the extent of the proposed development is, in fact, less than what might otherwise be assumed. Mr. Smith's arguments in this regard are well taken, in that the property

currently maintains an existing dwelling and the proposed expansion will result in only a net increase of two dwelling units on the parcel. Further, I find as fact that the Petitioners have met their burden as required under Section 4A02.4.F.1 of the B.C.Z.R., as well as Section 307 thereof. Thus, the Petition for Special Variance shall be granted.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 15th day of May, 1992 that a Petition for Special Variance from Section 4A02.4.F.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) relating to transportation standards of intersections for a non-industrial development, in accordance with Petitioners' Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmm

ORDER RECEIVED FOR FILING
Date 5/15/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 5/15/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 5/15/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 5/15/92
By [Signature]

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Baltimore County Department of Planning
Zoning Administration
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-1386

May 12, 1992

Mr. and Mrs. Ronald A. Chapman
4308 Necker Avenue
Baltimore, Maryland 21236

RE: Petition for Special Variance
Case No. 92-374-SA

Dear Mr. and Mrs. Chapman:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmm
att.
cc: Mr. J. Strong Smith



Petition for Variance
to the Zoning Commissioner of Baltimore County
for the property located at 4308 Necker Avenue
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Sections

Special Variance from Section 4A02.4D of the Baltimore County Zoning Regulations (B.C.Z.R.) pursuant to Section 4A02.4F.1 of B.C.Z.R. relating to transportation standards of intersections for a non-industrial development.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons. (Indicate hardship or practical difficulty)

A. That the demand or impact of the development proposed will be less than that assumed by the district standard that would otherwise restrict or prohibit the development; or the standard is not relevant and

B. The granting of the petition will not adversely affect a person whose application was filed prior to the petitioners application in accordance with subsection 4.A02.3.G.2.B.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessee

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner

(Type or Print Name)

Signature

Address

City State Zipcode

(We do solemnly declare and affirm, under the penalties of perjury, that we are the legal owner(s) of the property which is the subject of this Petition.)

(Legal Owner(s))

Ronald W. Chapman

(Type or Print Name)

Signature

Diane H. Chapman

(Type or Print Name)

Signature

4308 Necker Avenue 256-0669

Baltimore Maryland 21236

City State Zipcode

Name, Address and phone number of legal owner, contact purchaser or representative to be contacted

J. Strong Smith

Name

658 Kenilworth Drive 825-8120

Address Towson, Md. 21204

City State Zipcode

ESTIMATED LENGTH OF HEARING

Indicate the following date: 1 HR -

ALL OTHER

REVIEWED DATE 3/24/92

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

Description to Accompany A
Zoning Petition.

March 24, 1992

RE: Chapman Property

Beginning at a point located on the north right-of-way line of Necker Avenue, said point being South 54° 30' East 260' from the intersection of the centerlines of Necker Avenue and Vollmert Avenue, thence running in a clockwise direction

1 - North 32° 12' 10" East 240.74 feet

2 - South 58° 07' 48" East 185.70 feet

3 - South 19° 42' 50" West 219.89 feet to a point on the north right-of-way

line of Necker Avenue, thence binding on said right-of-way

4 - North 65° 20' 40" West 163.29 feet

5 - Along a curve to the right having a radius of 670.00 feet and a length of 71.65 feet to the point of beginning.

Containing 1.14 acres of land more or less.

THIS DESCRIPTION IS FOR ZONING PURPOSES ONLY AND NOT TO BE USED FOR CONVEYANCE OR AGREEMENTS.



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11th Date of Posting: 5/12/92
Posted for: Special Variance
Petitioner: R.W. & D.H. Chapman
Location of property: 4308 Necker Avenue, Towson, MD 21236
Location of Signs: 4308 Necker Avenue, Towson, MD 21236
Remarks:
Posted by: [Signature] Date of return: 5/12/92
Number of Signs: 4

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 12, 1992

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 12, 1992.

THE JEFFERSONIAN,

S. Zeke Olson
Publisher

\$42.25

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property described herein at Room 113, Suite 113, Courthouse, 400 Washington Avenue, Towson, Maryland 21204 on the following date:
Case Number: 92-374-SA
At 2:00 p.m.
SE of Vollmert Avenue
4308 Necker Avenue
11th Election District
6th Councilmanic District
Petitioner(s):
Ronald W. and
Diane H. Chapman
Hearing Date: Wednesday,
May 13, 1992 at 2:00 p.m.
Special Variance: relating to
transportation standards of intersections for a non-industrial development.
LAWRENCE E. SCHMIDT,
Zoning Commissioner of Baltimore County
NOTE: HEARINGS ARE PUBLIC
AND ACCESSIBLE. FOR
SPECIAL ACCOMMODATIONS
PLEASE CALL 887-3393.
4/188 April 18,

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE, REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 3/24/92 ACCOUNT: R 001-6150

RECEIVED FROM: AMOUNT: \$ 35.00

FOR: Rm. Van Giesing Fee

111 West Chesapeake Avenue, Towson, MD 21204

VALIDATION OR SIGNATURE OF CASHIER

111 West Chesapeake Avenue, Towson, MD 21204

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R 001 6150
Number

Date: 3/30/92

119200394

PUBLIC HEARING FEES QTY PRICE

010 -ZONING VARIANCE (IRL) 1 X \$35.00

LAST NAME OF OWNER: CHAPMAN

TOTAL: \$35.00

PAID PER HAND-WRITTEN RECEIPT DATED 3/24/92

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County
Zoning Commission
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

92-374

Date: 3/30/92

Account: R 001 6150
Number

Cashier Validation

Please Make Checks Payable To: Baltimore County

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: 4/27/92

Ronald W. and Diane H. Chapman
4308 Necker Avenue
Baltimore, Maryland 21236

RE:
CASE NUMBER: 92-374-SA
N/S Necker Avenue, 260' SE of Vollmert Avenue
4308 Necker Avenue
11th Election District - 6th Councilmanic
Petitioner(s): Ronald W. and Diane H. Chapman

Dear Petitioner(s):

Please be advised that \$ 77.25 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

ARNOLD JABLON
DIRECTOR

cc: J. Strong Smith

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

APRIL 6, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 92-374-SA
N/S Necker Avenue, 260' SE of Vollmert Avenue
4308 Necker Avenue
11th Election District - 6th Councilmanic
Petitioner(s): Ronald W. and Diane H. Chapman
HEARING: WEDNESDAY, MAY 6, 1992 at 2:00 p.m.

Special Variance relating to transportation standards of intersections for a non-industrial development.

Lawrence E. Schmidt
Zoning Commissioner of Baltimore County

cc: Ronald and Diane Chapman
J. Strong Smith

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 4, 1992

Mr. & Mrs. Ronald W. Chapman
4308 Necker Avenue
Baltimore, MD 21236

RE: Item No. 394, Case No. 92-374-SPH
Petitioner: Ronald W. Chapman, et ux
Petition for Variance

Dear Mr. & Mrs. Chapman:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 4, 1992

Mr. & Mrs. Ronald W. Chapman
4308 Necker Avenue
Baltimore, MD 21236

RE: Item No. 394, Case No. 92-374-SPH
Petitioner: Ronald W. Chapman, et ux
Petition for Variance

Dear Mr. & Mrs. Chapman:

Your petition has been received and accepted for filing this 24th day of March, 1992.

ARNOLD JABLON
DIRECTOR

Received By:
W. Carl Richards Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Ronald W. Chapman, et ux
Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: April 14, 1992

TO: Arnold Jablon, Director
Zoning Administration & Development Management

FROM: Ervin McDaniel, Chief
Development Review Section
Office of Planning and Zoning

SUBJECT: PETITIONS FROM ZONING
ADVISORY COMMITTEE - APRIL 13, 1992

The Office of Planning and Zoning has no comments on the following petitions:

Paul R. Rochlin	-	Item No. 392
Ronald W. Chapman	-	Item No. 394
Rose L. Mroy	-	Item No. 396
Rose L. Mroy	-	Item No. 397
Charles G. Scherr	-	Item No. 398
Charles G. Scherr	-	Item No. 399
Louis H. Young	-	Item No. 400
Robert L. Jones	-	Item No. 403
S. Edward Hargest	-	Item No. 404
Gary W. Hohne	-	Item No. 406
George F. Nixon	-	Item No. 408
Steven R. Goff	-	Item No. 413

jm
PETITNS1.ZON

RECEIVED
APR 21 1992
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: April 15, 1992

TO: Arnold Jablon, Director
Zoning Administration & Development Management

FROM: Ervin McDaniel, Chief
Development Review Section
Office of Planning and Zoning

SUBJECT: PETITIONS FROM ZONING
ADVISORY COMMITTEE - APRIL 6, 1992

The Office of Planning and Zoning has no comments on the following petitions:

Joseph M. Lewis	-	Item No. 383
Anthony S. Rinaldi	-	Item No. 384
George Schiaffino	-	Item No. 386
Robert H. Wiedefeld	-	Item No. 387
Joseph A. Cooper	-	Item No. 388
Terry Lee Foy	-	Item No. 389
Elliott Weinstein	-	Item No. 390
Ronald W. Chapman	-	Item No. 394

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning and Zoning at 887-3211.

jm
PETITNS3.ZON

RECEIVED
APR 21 1992
ZONING OFFICE

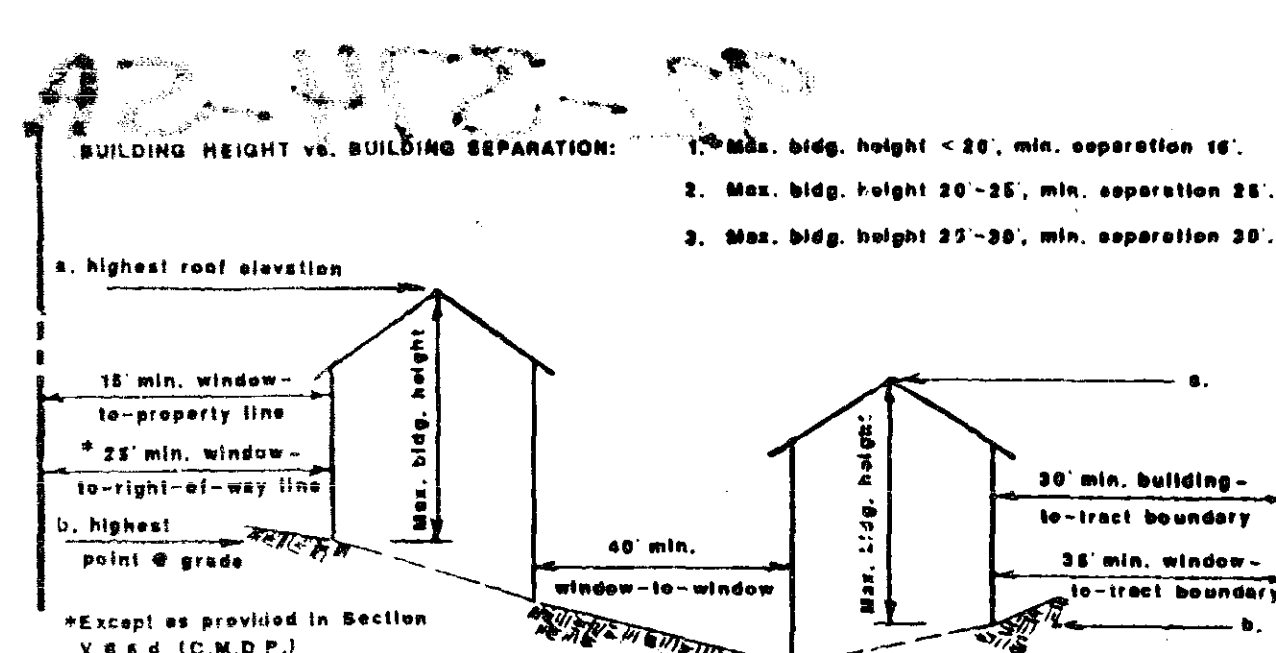
[illegible]

GENERAL NOTES

- 1 SITE DATA
EXISTING ZONING - DR-5.5
NET AREA 1.14 AC ±
GROSS AREA 1.30 AC ± 0.16 AC ± NECKER AREA (ROW)
UNITS PERMITTED - (1.93 X 5 = 7.15 U)
TOTAL PROPOSED 9 SINGLE FAMILY UNITS (1 UNIT EXCLUDED)
LOCAL OPEN SPACE REQUIRED 10% AC
650 S.F. X 3 = 0.04 AC
LOCAL OPEN SPACE PROVIDED - A WAIVER OF LOCAL OPEN SPACE WILL BE KEPT FOR
PARKING REQUIRED - 2 SP/UNIT X 3 = 6 SP
PARKING PROVIDED - 6 SP
2 ELECTION DISTRICT # 11
3 COUNCILMANIC DISTRICT # 8
4 CENSUS TRACT # 4114.02
5 WATERSHED - # 5
6 SUBSEWERED - # 17
7 DEED REFERENCE - 6443707, 81251465
8 TAX ACCOUNT NO - 190006610
9 LANDSCAPING -
10 THERE ARE NO STEEP SLOPES (GREATER THAN 25%) EXISTING ON THE SITE.
11 THERE ARE NO WETLANDS, STREAMS, BODIES OF WATER, OR SPRINGS KNOWN TO EXIST ON THE SITE.
12 THERE ARE NO 100 YEAR FLOODPLAINS EXISTING ON THE SITE.
13 THERE ARE NO HISTORIC BUILDINGS EXISTING ON THE SITE.
14 THERE ARE NO CRITICAL AREAS EXISTING ON THE SITE.
15 THERE ARE NO ARCHEOLOGICAL SITES KNOWN TO EXIST ON THIS SITE.
16 THERE ARE NO ENDANGERED SPECIES HABITATS KNOWN TO EXIST ON THE SITE.
17 THERE ARE NO HAZARDOUS MATERIALS KNOWN TO EXIST ON THE SITE.
18 TAX MAP NO. 72 BLOCK 10, PARCEL NO 677
19 THE EXISTING WELL SHALL BE FILLED BY A LICENSED WELL DRILLER
20 THE EXISTING SEPTIC SYSTEM SHALL BE REMOVED AND REMOVED OR BACKFILLED.
21 AVERAGE DAILY TRIPS - 3 X 10.5 = 31.5 ADTS
22 SCHOOL DISTRICT - JOSSA VILLE ELEMENTARY
23 PROPOSED HOUSES SHOWN ARE FOR GRAPHIC REPRESENTATION ONLY AND ARE NOT INTENDED TO SHOW THE EXACT SIZE AND LOCATION OF

24 THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD INTACT BY THE
BY THE OWNERSHIP SHOWN SINCE 1988 THE DEVELOPER'S ENGINEER HAS
CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS
SHOWN ON THE PLAN HAS EVER BEEN UTILIZED AS DENSITY OR AREA
TO SUPPORT ANY OFF-SITE DWELLINGS.

OWNER / DEVELOPER
RONALD W. CHAPMAN
4508 NECKER AVENUE
BALTIMORE, MD. 21236
PH. 410-256-0767



BUILDING HEIGHT & SETBACK RESTRICTIONS
N.T.S.

GWS

658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(301) 825-8120

[illegible]

ZONING REQUEST

1. SPECIAL VARIANCE FROM SECTION 4A02.4D OF THE BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.) PURSUANT TO SECTION 4A02.4F.1 OF B.C.Z.R. RELATING TO TRANSPORTATION STANDARDS OF INTERSECTIONS FOR A NON-RESIDENTIAL DEVELOPMENT.

Petitioner's
No. 1

394

CHAPMAN PROPERTY

PLAT TO ACCOMPANY A PETITION FOR
A SPECIAL VARIANCE

BALTIMORE COUNTY, MARYLAND DATE: 24 MARCH, 1991
PUBLIC SERVICES CRG NO. 92064-M PLANNING NO.